

1 General Government Cabinet

2 Kentucky Board of Medical Licensure

3 (New Administrative Regulation)

4 201 KAR 9:220. Restriction Upon Dispensing of Schedule II Controlled  
5 Substances and Schedule III Controlled Substances Containing Hydrocodone.

6 RELATES TO: KRS 311.530-311.620, 311.990, 218A.205

7 STATUTORY AUTHORITY: KRS 311.565(1)(a)

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.565(1)(a)  
9 authorizes the board to promulgate regulations to regulate the conduct of  
10 licensees. KRS 311.595(9) and 311.597 authorize disciplinary action against  
11 licensees for specified offenses. This administrative regulation establishes a  
12 restriction governing dispensing of Schedule II controlled substances and  
13 Schedule III controlled substances containing hydrocodone.

14 Section 1. (1) No physician licensed in Kentucky shall dispense an amount  
15 greater than a forty-eight (48) hour supply of any Schedule II controlled  
16 substance or a Schedule III controlled substance containing hydrocodone to any  
17 patient, unless the dispensing is done as part of a narcotic treatment program  
18 licensed by the Cabinet for Health and Family Services.


19 (2) A physician licensed in Kentucky shall not act to avoid the limitation upon  
20 dispensing set out in subsection (1), supra, by dispensing Schedule II controlled

1 substances or Schedule III controlled substances containing hydrocodone to a  
2 patient on consecutive or multiple occasions.

3 (3) Any violation of this section shall be considered a violation of KRS  
4 311.595(12) and of 311.595(9), as illustrated by KRS 311.597(1)(b), and shall  
5 constitute a legal basis for disciplinary action pursuant to KRS 311.595.

Adopted:

7/20/2012  
DATE

  
PRESTON P. NUNNELLEY, M.D., PRESIDENT  
KENTUCKY BOARD OF MEDICAL LICENSURE

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on September 27, 2012 at 9:00 a.m. at the offices of the Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by September 20, 2012, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until October 1, 2012. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

**CONTACT PERSON:** C. Lloyd Vest II, General Counsel, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, phone (502) 429-7150, fax (502) 429-7118.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: C. Lloyd Vest II, General Counsel, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222: (502) 429-7150.

(1) Provide a brief summary of:

- (a) What this administrative regulation does: This administrative regulation establishes a restriction upon dispensing of Schedule II controlled substances and Schedule III controlled substances containing hydrocodone.
- (b) The necessity of this administrative regulation: It is necessary to promulgate this regulation to establish a restriction upon dispensing of Schedule II controlled substances and Schedule III controlled substances containing hydrocodone.
- (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation acts specifically establish a restriction upon the dispensing of Schedule II controlled substances and Schedule III controlled substances containing hydrocodone.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation acts specifically to establish a restriction upon the dispensing of Schedule II controlled substances and Schedule III controlled substances containing hydrocodone.

(2) If this is an amendment to an existing regulation, provide a brief summary of:

- (a) How the amendment will change this existing administrative regulation; Not Applicable.
- (b) The necessity of the amendment to this administrative regulation; Not Applicable.
- (c) How the amendment conforms to the content of the authorizing statutes; Not Applicable.
- (d) How the amendment will assist in the effective administration of the statutes. Not Applicable.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This will affect all physicians in the Commonwealth of Kentucky that prescribe Schedule II controlled substances and Schedule III controlled substances containing hydrocodone.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this regulation, if new, or by the change, if it is an amendment, including:

- (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional action is required on the part of the affected physicians.
  - (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no costs to regulated entities associated with this regulation.
  - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Physicians will help curb the prescription drug epidemic in the Commonwealth of Kentucky.
- (5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
- (a) Initially: None
  - (b) On a continuing basis: None
- (6) What is the source of funding to be used for the implementation and enforcement of this administration regulation: None.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase of fees or funding will be necessary.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees nor does it directly or indirectly increase any fees.
- (9) TIERING: Is tiering applied? (Explain why or why not)

Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals regulated by it.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 201 KAR 9:220  
Contact Person: C. Lloyd Vest II  
Phone number: 502/429-7150

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? None

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.  
KRS 311.565(1)(a); 218A.205

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years?  
None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: